

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

DOUGLAS WALSH,

Defendant and Appellant.

D075538

(Super. Ct. No. EMH00795)

APPEAL from an order of the Superior Court of Imperial County, L. Brooks
Anderholt, Judge. The appeal is dismissed.

Christian C. Buckley, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance by Plaintiff and Respondent.

FACTUAL AND PROCEDURAL BACKGROUND

In 2013, Douglas Walsh pleaded no contest to one count of stalking (Pen. Code,
§ 646.9) and was placed on formal probation. However, the trial court revoked probation

after Walsh admitted to violating the terms of probation, and sentenced him to three years in state prison. Walsh was hospitalized at Atascadero State Hospital as a mentally disordered offender (MDO) under Penal Code section 2962 with a scheduled release date of March 9, 2018. When his commitment was set to expire, he stipulated to a one-year extension of commitment with a scheduled release date of March 9, 2019.

In September 2018, the district attorney's office filed a petition to extend Walsh's involuntary treatment another year under Penal Code section 2970. Following a bench trial, the court found Walsh to be an MDO and entered an order extending his commitment another year. Walsh appeals the order extending his commitment.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal concerning the order continuing Walsh's involuntary commitment as an MDO and asks this court to review the recommitment proceedings in accord with *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738. Pursuant to *Anders*, counsel lists as a possible but not arguable issue, whether Walsh's commitment was "validly extended."

In requesting this court apply the *Wende/Anders* independent review procedures to appeals in MDO recommitment proceedings, counsel notes the Supreme Court's decision in *Conservatorship of Ben C.* (2007) 40 Cal.4th 529 (*Ben C.*), which held the *Wende/Anders* procedures do not apply to civil commitments under the Lanterman-Petris-Short (LPS) Act (Welf. & Inst. Code, § 5000 et seq.). (*Ben C.*, at p. 539.) Further, counsel acknowledges that in *People v. Taylor* (2008) 160 Cal.App.4th 304, the Second

District considered whether the *Wende/Anders* procedures apply to MDO commitment cases and concluded they do not. We agree with the *Taylor* decision and decline to apply the *Wende/Anders* procedures to this MDO case.

In accordance with the recommendations set forth in *Ben C.*, *supra*, 40 Cal.4th at page 544, counsel has prepared a brief setting forth the facts and the law, and has provided Walsh with a copy of the brief and the record on appeal. Counsel informed Walsh of his right to file a supplemental brief. Our court has also informed Walsh of his right to file a supplemental brief, but he declined to do so.

Because Walsh has failed to raise an arguable issue on appeal from an order of recommitment, we decline to retain this case (as is permitted by *Ben C.*), and instead dismiss the appeal. (*Ben C.*, *supra*, 40 Cal.4th at p. 544; *People v. Serrano* (2012) 211 Cal.App.4th 496, 501.)

DISPOSITION

The appeal is dismissed.

McCONNELL, P. J.

WE CONCUR:

IRION, J.

DATO, J.